IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

JP MORGAN CHASE BANK,

NATIONAL ASSOCIATION,

ID No. 09L-06-078 NEP

In and For Kent County

PLAINTIFF,

:

:

:

V.

:

IRIS R. RYANS

:

DEFENDANT.

:

Submitted: March 23, 2018 Decided: March 28, 2018

ORDER

Before the Court is Defendant Iris R. Ryans's (hereinafter "Defendant") Motion to Set Aside Judgment.

The facts briefly are as follows. On June 22, 2009, Plaintiff filed a complaint against Defendant seeking foreclosure of Plaintiff's interest in 7 Ashby Lane, Dover, Delaware 19904. On July 8, 2009, a Sheriff's Return was filed with this Court in which Sheriff Jim Higdon attested that a copy of writ of summons was personally served upon Defendant on July 7, 2009. Default Judgment was entered in Plaintiff's favor on August 2, 2010 (hereinafter the "Judgment").

Defendant's only arguments here for setting aside the Judgment are that she never received a summons, and that Mr. Higdon, the sheriff, "was untrustworthy to sign a sheriff's return."

Under Superior Court Civil Rule 60, the Court shall set aside a judgment if the movant demonstrates that the judgment is void. Default judgments may be considered void where proper service was never affected upon the defendant. "In Delaware, a sheriff's return is "prima facie proof of proper service." "Strong and convincing proof is required to rebut the presumption of its verity." Here, Defendant has presented no proof or evidence whatsoever to rebut the presumption of proper service. At the hearing held on March 23, 2018, with regards to this matter, Ms. Ryans made ad hominem attacks against Mr. Higdon, and repeated her claim that she never received a summons. The Court finds that Defendant was properly served, and she puts forth no other grounds for setting aside the Judgment.

WHEREFORE, for the foregoing reasons, Defendant's motion to set aside the judgment is **DENIED**.

IT IS SO ORDERED.

/s/ Noel Eason Primos

Judge

NEP/wjs

Via File&ServeXpress & U.S. Mail

oc. Prothonotary

cc. Iris Ryans

Daniel Conway, Esquire

¹ Keith v. Melvin L. Joseph Const. Co., 451 A.2d 842, 845 (Del. Super. 1982).

² Alston v. Dipasquale, 2001 WL 34083824, at *1 (Del. Super. Oct. 19, 2001).

³ Cohen v. Brandywine Raceway Ass'n, 238 A.2d 320, 324 (Del. Super. 1968).